

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

TERRENCE COLES, JR.,

Defendant.

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Case No. 08-20351

Honorable John Corbett O'Meara

**ORDER DENYING CERTIFICATE OF APPEALABILITY**

This matter came before the court upon request by the United States Court of Appeals for the Sixth Circuit. On June 3, 2014, defendant Terrence Coles, Jr., filed notice of appeal of this court's May 15, 2014 order denying, among other things, his motion to vacate sentence pursuant to 28 U.S.C. § 2255. The Court of Appeals has requested from this court either a certificate of appealability or a reason why a certificate should not issue.

In a habeas corpus proceeding in which the detention complained of arises from process issued by a state court, or in a 28 U.S.C. § 2255 proceeding, the applicant cannot take an appeal unless a circuit justice or a circuit or district judge issues a certificate of appealability under 28 U.S.C. § 2253(c). If an applicant files a notice of appeal, the district judge who rendered the judgment must either issue a certificate of appealability or state why a certificate should not issue.

Fed. R. App. P. 22(b). The court may issue a certificate of appealability if the petitioner has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). In this case, the court adhered to the strict, one-year filing requirement imposed by federal statute and found that Coles' § 2255 motion was untimely. Because Coles has failed to make a substantial showing of the denial of a constitutional right, the court will not issue a certificate of appealability.

**ORDER**

It is hereby **ORDERED** that the certificate of appealability is **DENIED**.

s/John Corbett O'Meara  
United States District Judge

Date: October 15, 2014

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, October 15, 2014, using the ECF system and/or ordinary mail.

s/William Barkholz  
Case Manager